

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MAKI TYNER, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

**HEALTH IQ INSURANCE SERVICES,
INC.,**

Defendant.

CLASS ACTION

CIV-21-608-F

**ORDER GRANTING PLAINTIFF'S MOTION
FOR LEAVE TO FILE SUR-REPLY**

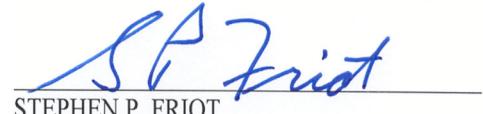
This matter comes on for consideration on Plaintiff Maki Tyner's Motion for Leave to File Sur-Reply in Opposition to Defendant's Motion for Summary Judgment. (Dkt. Nos. 44 and 45). Plaintiff is seeking permission to submit a five (5) page sur-reply responding to cases and arguments raised for the first time in Defendant's Reply in Further Support of Defendant's Motion for Summary Judgment. (Dkt. No. 40).

“The Tenth Circuit's guidance on sur-replies establishes that although sur-replies are generally not permitted, ‘when a moving party advances in a reply new reasons and evidence in support of its motion for summary judgment, the nonmoving party should be granted an opportunity to respond.’” *Ricketts v. USI Indus. Servs., Inc.*, No. CIV-19-01118-PRW, 2021 U.S. Dist. LEXIS 218649, at *1 (W.D. Okla. Oct. 15, 2021) (quoting *Beaird v. Seagate Tech., Inc.*, 145 F.3d 1159, 1164 (10th Cir. 1998)). The Court, being advised in

the matter, and finding that the request meets the standard for leave to file a sur-reply, finds that Plaintiff's Motion should be and is hereby **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Maki Tyner shall file, within five business days, her Sur-Reply in Opposition to Defendant's Motion for Summary Judgment, attached as Exhibit 1 to her Motion.

IT IS SO ORDERED this 3rd day of November, 2022.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE